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February 13, 2001

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554


Re: Amendment of Section 73.202 (b)  
Table of Allotments  
Alberta, Virginia, and Whitakers, North Carolina  
MM Docket No. 00-245

Dear Ms. Salas,

Transmitted herewith on behalf of MainQuad Broadcasting, Inc., are an original and four copies of the Reply Comments of MainQuad Broadcasting, Inc., in the above-referenced proceeding.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,

  
John M. Pelkey

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Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In the Matter of

### Amendment of Section 73.202(b)

Table of Allotments  
FM Broadcast Stations.  
(Alberta, Virginia, and  
Whitakers, North Caroli

MM Docket No. 00-245  
RM-9971

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FEB 13 2001

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

To: Chief, Allocations Branch

Reply Comments  
of MainQuad Broadcasting, Inc.

John M. Pelkey  
Michael I. Goulding  
Its Attorneys

GARVEY, SCHUBERT & BARER  
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202/965-7880

Date: February 13, 2001

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## SUMMARY

MainQuad Broadcasting, Inc., permittee of WAQD(FM), Alberta, Virginia, has requested that the Commission modify the Table of FM Allotments so as to upgrade WAQD(FM)'s channel from Class A to Class C3 status and to reallocate the upgraded channel from Alberta, Virginia, to Whitakers, North Carolina. At the same time, so as to ensure that Alberta receives service, MainQuad has proposed that Channel 299A be allotted to Alberta and has committed both to apply for that channel if it is allocated to Alberta and to construct the new Alberta facilities promptly if MainQuad is awarded the Alberta Channel 299A construction permit.

MainQuad's proposal carries with it significant public interest benefits. It would permit two communities, with a combined population of 1,197 people, to receive first local transmission service. In addition, by allocating the upgraded channel at Whitakers, the Commission would be allowing an additional 172,026 people to receive increased service.

In response to MainQuad's proposal, two unincorporated entities, calling themselves Garysburg Radio and Dinwiddie Radio Company ("DRC"), have submitted counterproposals seeking to thwart the substantial public interest benefits inherent in MainQuad's proposal. Garysburg Radio asks the Commission to allocate a new channel to

Garysburg, North Carolina, instead of Whitakers, whereas DRC seeks to have the channel allocated to Dinwiddie, Virginia, rather than Whitakers. Neither counterproposal has any merit when compared to the MainQuad proposal.

MainQuad's proposal represents a superior allocation of allotments as compared to Garysburg Radio's counterproposal because:

(1) although both Garysburg and MainQuad seek to provide first local service to a community, MainQuad's proposal would provide 113,860 more people with reception service; (2) the fact that Garysburg Radio's counterproposal would provide 197 more people with first local service is, as is explained in Commission precedent, *de minimis* when compared to this reception gain; (3) contrary to Garysburg Radio's assertion, MainQuad's proposal would not deprive Alberta of its only existing local broadcast service, but rather, Alberta would retain local service through the allotment of Channel 299A in accordance with the Commission's decision in *Llano and Marble Falls, Texas*, 12 FCC Rcd 6809 (1997).

In a like vein, MainQuad's proposal represents a superior allocation of allotments when compared to DRC's counterproposal because: (1) DRC's proposal is technically deficient and should be rejected without further consideration; (2) assuming, *arguendo*, DRC's counterproposal is not deficient, MainQuad's proposal would provide first local service to 109 more people and reception service to 128,760 more

people; (3) contrary to DRC's assertions, MainQuad's proposal would not constitute a move from a rural community to an urban community, even using DRC's alleged ideal coordinates; (4) assuming, *arguendo*, that MainQuad's proposal would constitute such a move, requiring a *Tuck* analysis, that analysis demonstrates that Whitakers is an independent community deserving of first local service.

MainQuad's proposal thus better achieves the goals established by the Commission's allocations priorities than does either of the counterproposals. As a result, the MainQuad proposal should be adopted.

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In the Matter of	]	
	]	
Amendment of Section 73.202(b)	]	MM Docket No. 00-245
	]	RM-9971
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FM Broadcast Stations.	]	
(Alberta, Virginia, and	]	
Whitakers, North Carolina)	]	

To: Chief, Allocations Branch

**Reply Comments**  
**of MainQuad Broadcasting, Inc.**

By Petition for Rulemaking filed July 26, 2000, Broomfield Broadcasting, Inc. ("Broomfield") requested the Commission to amend Section 73.202(b) of its Rules, the Table of FM Allotments, to substitute Channel 276C3 for Channel 276A at Alberta, Virginia, reallocate Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina, modify the license of WAQD(FM) to specify operation on Channel 276C3 at Whitakers, North Carolina and allocate Channel 299A to Alberta, Virginia. In response, the Commission released a *Notice of Proposed Rulemaking* ("NPRM") soliciting the submission of comments by January 29, 2001, and reply comments by February 13, 2001. See *NPRM*, MM Docket No. 00-245, RM-9971, DA 002771.



On January 29, 2001, MainQuad Broadcasting, Inc. ("MainQuad"), as Broomfield's successor in interest by virtue of the assignment by Broomfield to MainQuad of the construction permit for WAQD(FM),<sup>1</sup> filed Comments in the above-referenced proceeding in support of the proposed rulemaking. Comments and counterproposals were filed by Garysburg Radio and Dinwiddie Radio Company ("DRC"), two unincorporated entities with respect to which no background or ownership information is provided. Garysburg Radio requests that the Commission, instead of allotting Channel 276C to Whitakers as that community's first local transmission service, continue to accord Class A status to Channel 276 and allocate that reduced power channel to Garysburg, North Carolina. At the same time, Garysburg Radio would have the Commission allot Channel 299A to Alberta and modify the WAQD(FM) permit to specify operation on Channel 299A at Alberta. DRC also asks the Commission to continue to inhibit operation on Channel 276 by only granting Class A status to that channel. DRC, however, proposes that Channel 276A continue to be allocated to Alberta. Under DRC's proposal, Channel 299 would be allocated to Dinwiddie, Virginia, as a Class A channel.

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<sup>1</sup> On August 28, 2000, the Commission granted the assignment of Broomfield's construction permit to MainQuad (File No. BAPH-20000711AAQ). The assignment was consummated on October 6, 2000.

MainQuad, by its attorneys, hereby respectfully submits its Reply Comments in response to the Comments and Counterproposals of Garysburg Radio and DRC in the above-captioned proceeding. As will be discussed more fully below, MainQuad's proposal better serves the public interest than either counterproposal and, as a result, the revised allocation scheme proposed by the Commission in the *NPRM* should be adopted.

### I. Introduction

In comparing proposals for revisions to the Table of FM Allotments, the Commission reviews each proposal with an eye toward serving four priorities:

- (1) first full-time aural service;
  - (2) second full-time aural service;
  - (3) first local service; and
  - (4) other public interest matters,
- with co-equal weight being given to priorities (2) and (3).

*Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1990).

Applying these four priorities, it is clear that grant of the MainQuad proposal would permit significant public interest benefits. The MainQuad proposal would permit two communities, with a combined population of 1,197 people, to receive first local transmission service. In addition, by permitting the allocation of a high-powered channel at Whitakers, the MainQuad proposal would permit an additional 172,026 people to receive increased service.

By contrast, Garysburg Radio's proposal would permit first local service to a community having fewer than 200 people more than Whitakers, while providing reception service to nearly 114,000 *fewer* people than would be permitted under MainQuad's proposal. The Commission has previously held that a proposal that would allow the provision of additional reception service to such a disproportionately large number of people is to be preferred to a proposal, such as the Garysburg Radio proposal, that would allow increased service to a small number of people under a more highly-ranked allocations priority.

In the case of the DRC proposal, the difference between the proposals in serving the allocations priorities is even more marked. DRC claims first local service to a community of only 751 persons, i.e., a community of some 100 persons fewer than Whitakers, and, as is further

explained below, even that coverage is called into question by the failure of DRC to define the Dinwiddie community boundaries or to accurately calculate the city-grade contour using appropriate allocations techniques. In addition, the DRC proposal would provide additional reception service to only 41,668 persons, which is nearly 131,000 people fewer than would be served under MainQuad's proposal.

Indicative of the paucity of public interest benefit that would accrue through the adoption of either of the two counterproposals is the fact that the two counterproposals combined would yield less received service than the MainQuad proposal standing alone. Specifically, the Dinwiddie proposal proposes received service to 41,688 persons, whereas the Garysburg proposal would result in service to 58,166 persons. Thus, the Dinwiddie and Garysburg proposals, even if they both could be granted (which they cannot), would result in service to some 70,000 fewer people than under the MainQuad proposal.

Faced with a MainQuad proposal that does a far better job of meeting the Commission's allocation priorities, both Garysburg Radio and DRC are reduced to making arguments that simply are inconsistent with established precedent or are factually incorrect. Contrary to the claims made by Garysburg Radio and DRC, MainQuad is not

withdrawing service from Alberta. Quite to the contrary, as is demonstrated below, MainQuad's proposal is perfectly consistent with established Commission precedent providing for the use of replacement channels to ensure the provision of service to a community. Similarly, DRC's claim that MainQuad's proposal constitutes a move from a rural community to an urban community is based upon an error in DRC's engineering analysis and, in any event, is refuted through the use of a "*Tuck*"<sup>2</sup> analysis. Consequently, given the superior arrangement of allotments that would be achieved by a grant of the MainQuad proposal, the revisions to the FM Table of Allotments proposed by the Commission in the *NPRM* should be adopted.

## II. The Garysburg Radio Counterproposal

### A. The 197 Additional People That Would Be Provided First Local Service By Garysburg Radio's Counterproposal is *De Minimis* as Compared to the 113,860 Additional People That Would Be Provided Reception Service Under MainQuad's Proposal

Both MainQuad's proposal and Garysburg Radio's counterproposal seek to provide first local service to a community. Garysburg Radio claims that its counterproposal should be preferred because the community of Garysburg has 197 more citizens than does Whitakers and

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<sup>2</sup> *Faye and Richard Tuck, 3 FCC Rcd. 5374, 5377-78 (1988).*

thus provides first local service to more people. (Garysburg Comments at 2.) In making this claim, however, Garysburg Radio exalts form over substance by trying to force the Commission into a slavish adherence to the allocations priorities that it has previously rejected.

In *Seabrook, Huntsville, Bryan, Victoria, Kennedy and George West, Texas*, 10 FCC Rcd. 9360 (1995), the Commission was faced with two competing upgrade proposals. On the one hand, the proposed “Huntsville upgrade” promised an additional service to 112,356 persons and a second full-time aural service to 455 persons. *Id.* On the other hand, the proposed “Seabrook upgrade” promised an additional service to 256,984 persons. *Id.* The Commission held that a second aural service to 455 persons was *de minimis* and did not trigger priority (2) of its FM Priorities in view of the differential of 144,000 persons between the net gain in population of two competing upgrades.<sup>3</sup> *Id.* at 9362.

Significantly, in reaching its decision, the Commission stated that “whether an additional service gain to a particular number of persons is

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<sup>3</sup> Under the Commission’s allocations priorities, second full-time aural service is given the same weight as the first local service that is the subject of the instant rulemaking. See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d at 91.

*de minimis* directly relates to the *total number of persons* that would be affected by an allotment proceeding.” *Id.* (emphasis added). In addition, “the issue of whether a particular population gain is *de minimis* pertains to all four Priorities in FM Priorities.” *Id.* The Commission determined that it would “not give a decisional preference or apply any of these Priorities in a manner that would lead to an anomalous result or otherwise circumvent the public interest.”<sup>4</sup> *Id.*

Applying the analysis announced in *Seabrook*, Garysburg Radio’s counterproposal to allot Channel 276A to Garysburg would provide first local service to 1,057 people (Garysburg Radio Comments at 3) and

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<sup>4</sup> In reaching its decision, the Commission in *Seabrook*, 10 FCC Rcd. at 9362, noted several cases that it found to be “[c]onsistent with this policy”: *Live Oak and St. Augustine, Florida*, 4 FCC Rcd 758 (1989) (granting an upgrade for station WUVU in St. Augustine over a competing upgrade for Station WQHL in Live Oak because of the population differential in the respective gain areas of 588,515 versus 653 people, deeming the first aural service to 60 people that would have been provided in Live Oak to be *de minimis* in light of the disparity in the population gains); *North Charleston, Eastover and Elloree, South Carolina*, 51 RR2d 25 (1982) (allotting a second FM channel to North Charleston over competing proposals to allot the FM channel to either Eastover or Elloree as a first local service because the populations of Eastover and Elloree were slightly less than 1,000 while the population of North Charleston was in excess of 70,000); *Santee Cooper Broadcasting Co.*, 57 RR2d 662 (Rev. Bd. 1984) (providing no dispositive first local service credit to a community of 541 people). *Seabrook* has since been followed by *Okmulgee, Nowata, Pawhuska, Bartlesville, Bixby, Oklahoma, Rogers, Arkansas*, 10 FCC Rcd. 12014 (1995) (determining that the public is better served by the allotment of a channel serving 127,320 people over an allotment that serves only 25,449 people even though the gain area of the second proposal receives less fulltime services and would provide fourth fulltime service to 842 people, in part, by finding that “the provision of a fourth fulltime service to 842 persons does not warrant the denial of a proposal which could provide an additional service to 127,320 persons, albeit within an area which is presently well-served.”), and referred to favorably by, *Cheyenne, Wyoming, and Gering, Nebraska*, 15 FCC Rcd. 7528, 7531 (2000) (recognizing that the Commission held that a second aural service to 455 people was *de minimis* and did not trigger priority (2) in view of a differential of 144,000 people between the net gain in population of two competing upgrades but distinguishing *Seabrook* in part because unlike the instant case, *Seabrook* did not involve a proposal that would result in white and gray areas); *Bay Spring, and Ellisville, Mississippi, NPRM*, 14 FCC Rcd. 3946, 3950 (1999).

reception service to 58,166 people (Exhibit 1, MainQuad's Garysburg 60 dBu Engineering Study).<sup>5</sup> By contrast, MainQuad's proposal would provide first local service to 860 people at Whitakers (MainQuad's Comments at 5) and reception service reaching 172,026 people from Whitakers (MainQuad's Comments at Exhibit 1.) Thus, while Garysburg Radio's counterproposal would provide first local service to 197 more people than would MainQuad's proposal, MainQuad's proposal would provide reception service to 113,860 more people than would Garysburg Radio's counterproposal. Therefore, MainQuad's proposal would provide reception service to nearly 3 times more people than would Garysburg Radio's counterproposal. Consistent with the principles announced in *Seabrook*, the 197 additional people that would be provided first local service if Garysburg Radio's counterproposal were granted is *de minimis* in comparison to the 113,860 additional people that would be provided reception service if MainQuad's proposal were granted. Accordingly, contrary to Garysburg Radio's claim, Garysburg Radio's counterproposal is not entitled to a preference under priority (3) of the Commission's FM Priorities. Indeed, to award such a preference would lead to "an

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<sup>5</sup> The comparisons of first local service and reception service discussed in these Reply Comments do not take into account any transmission service or reception service from the proposed Alberta facilities inasmuch as all three of the parties are proposing that the Alberta channel be given Class A status.



anomalous result” and “circumvent the public interest” in contravention of the Commission’s decision in *Seabrook*. *Seabrook*, 10 FCC Rcd. at 9362. Instead, it is MainQuad’s proposal that is to be preferred in keeping with the *Seabrook* holding.

**B. First Local Service at Whitakers Would Not Come at the Expense of the Loss of the Only Existing Local Broadcast Service at Alberta**

First local service at Whitakers would not come at the expense of the loss of the only existing local broadcast service at Alberta as asserted by Garysburg Radio. While it is true that WAQD(FM) did provide some limited service until it was forced to terminate program tests as the result of interference<sup>6</sup> (Garysburg Comments at 2), it does not follow that such existing service would be lost by the substitution of Channel 276C3 for Channel 276A at Alberta and reallocation of Channel 276C3 to Whitakers. Specifically to ensure that there is no such loss of service, MainQuad’s proposal includes the allotment of Channel 299A to Alberta

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<sup>6</sup> Indeed, as noted in MainQuad’s Comments at n.3, because the terms of WAQD(FM) construction permit required that WAQD(FM) commence operations prior to December 21, 2000, MainQuad initiated program tests of WAQD(FM) just prior to that date. However, it should be noted that almost immediately thereafter, MainQuad was forced to cease program tests because of numerous interference complaints that had been received by the Mayor of Alberta. The complaints all claim that WAQD(FM) is causing interference to Television Channel 12, which operates on a frequency that bears a second harmonic relationship to FM Channel 276, which is the channel that is currently allocated to Alberta and the channel on which WAQD(FM) is authorized to operate. Testing of the WAQD(FM) transmitter indicates that it is operating in compliance with the Commission’s rules—thus suggesting that the problem may be due to the equipment that the complainants must use to receive Channel 12, which originates from Richmond, Virginia, a community that is approximately 55 miles from Alberta. The existence of this problem highlights the need for expeditious action on MainQuad’s request to reallocate Channel 276 from Alberta and to instead allocate to Alberta Channel 299, which does not bear a second harmonic relationship to Channel 12.

coupled with a pledge to apply for that channel and promptly build the necessary facilities if its application is granted.

Garysburg Radio argues that such an allotment of a new channel coupled with the proponent's pledge to apply for that channel and promptly build the necessary facilities if its application is granted is not an equivalent substitute for an existing service. *Id.* Garysburg Radio bases its contention upon the Commission's ruling in *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). *Id.* However, reliance on this 1990 ruling is misplaced.

The Commission staff addressed this very issue in *Llano and Marble Falls, Texas*, 12 FCC Rcd 6809 (1997), wherein it approved a plan almost identical to that of MainQuad's, *i.e.*, a channel was substituted for the community's only allocation so as to permit the creation of a first new local service in another community. In *Llano*, the Commission was expressly "concerned by any disruption in service that would be occasioned by removing the sole local service from Llano" and indeed noted that "[o]rdinarily, allotment of a replacement channel is not sufficient to overcome the concern pertaining to a disruption of local service." 12 FCC Rcd. at 6812. However, based upon the pledge of the

petitioner to apply for the replacement channel and, if authorized, promptly build the new facility, the Commission granted a change in the community of license from Llano to Marble Falls and allotted a new channel to Llano. *Id.* Moreover, it should also be noted that, in *Llano*, the Commission permitted the proponent to downgrade the class of station that would be substituted to ensure continued local transmission service, whereas MainQuad is proposing that there be no change in the class of the channel allocated to Alberta.

### III. The Dinwiddie Radio Company Counterproposal

#### A. DRC's Counterproposal is Deficient in the First Instance and Should Be Rejected By the Commission

It is well settled that counterproposals are required to be “technically correct and substantially complete” at the time they are filed. *Cloverdale, Montgovery and Warrior, Alabama*, 12 FCC Rcd. 2090, 2093 (1997). *See also Fort Bragg, California*, 6 FCC Rcd. 5817 at n.2 (1991) (counterproposal rejected for allotment site beyond maximum distance for 70 dBu contour); *Provincetown, Dennis, Dennis Port, West Yarmouth and Harwich Port, Massachusetts*, 8 FCC Rcd. 19 (1992) (counterproposal rejected for failure to show specific reference coordinates).

DRC's counterproposal was not technically correct and substantially complete as of the time it was filed. DRC has not demonstrated that it is proposing city-grade coverage and thus, first local service, to Dinwiddie. First, DRC has failed to define the geographic boundaries of Dinwiddie. Rather it states that it is "in the process of attempting to define the 'boundaries' of the community for purposes of determining its population." (DRC Comments at 3.) Second, DRC has misdepicted coverage by the proposed facilities by relying on "actual terrain" figures rather than "uniform terrain" figures as required by the Commission. In making allocations, the Commission employs its standard propagation methodology which uses the F(50,50) curves to predict the distance to a given signal contour. *Caldwell, College Station and Gause, Texas*, 15 FCC Rcd. 3322, 3324-26 (1998). The F(50,50) curves are based upon the propagation characteristics of radio signals in the FM band and assume an average of "uniform terrain." *Id.* Thus, DRC has failed to define the boundaries of its proposed community and has failed to demonstrate, using an appropriate allocations engineering methodology, that its proposal would permit city-grade coverage of that community.<sup>7</sup> Accordingly, DRC's counterproposal must be rejected without further consideration.

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<sup>7</sup> For example, the Dinwiddie proposal would not provide city-grade service to the Southside Middle

DRC's failure to provide specific information concerning the boundaries of its proposed community and to demonstrate city-grade coverage of that community is particularly important in the present case. DRC's estimates of the population that would receive first local service as a result of its proposal vary widely. In the body of its "Comments and Counterproposal," DRC proposes that the boundaries of the Dinwiddie Magisterial District be used to define the Dinwiddie community boundaries. According to DRC, 751 people reside within the Dinwiddie Magisterial District (DRC Comments at 3). Given the fact DRC's engineer provides population figures for the Dinwiddie Census Subdivision, however, it can be inferred that DRC may be poised to claim that the Dinwiddie Census Subdivision, with its population of 3,250 persons, might provide a more appropriate definition of the Dinwiddie "community" for Section 307(b) purposes. Such a claim, however, would be undermined by the fact that DRC does not provide city-grade service over all of the Rowatny and Sapony Districts, which comprise the Dinwiddie Census Subdivision. (See MainQuad Exhibit 5, attached hereto). The fact that MainQuad is being forced to guess at DRC's intentions in this regard only serves to highlight DRC's failure to provide

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School, which currently houses the Dinwiddie Elementary School, or the Dinwiddie Rescue Squad. See MainQuad Exhibit 5, attached hereto.

the Commission with a counterproposal that is technically correct and substantially complete. DRC has left the Commission no choice but to reject the DRC counterproposal as defective.

B. Even Assuming That DRC's Proposal Is Not Deficient and Should Be Considered, It Would Not Better Serve the Public Interest

1. DRC's Assertions That Its Counterproposal Would Better Serve the Public Interest Are Erroneous

Both MainQuad's proposal and DRC's counterproposal seek to provide first local service to a community. However, DRC asserts that its counterproposal would better serve the public interest and the Commission's FM allotment priorities than MainQuad's proposal for two reasons: (1) like Garysburg Radio, DRC asserts that first local service at Whitakers would come at the expense of the loss of the only existing local broadcast service at Alberta, while no such loss would occur under its counterproposal; and (2) DRC asserts that MainQuad's proposal constitutes a move from a rural community to an Urban Community and thus, necessitates a *Tuck* analysis. (DRC's Comments at 4-5.) As will be discussed more fully below, both of these arguments are fatally flawed.

a. First Local Service at Whitakers Would Not Come at the Expense of the Loss of the Only Existing Local Broadcast Service at Alberta

Like Garysburg Radio, DRC argues that first local service at Whitakers would come at the expense of the loss of the only existing local broadcast service at Alberta. (DRC's Comments at 5.) Like Garysburg Radio, DRC relies on the Commission's 1990 ruling in *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd. 4870 (1989), *recon. granted in part*, 5 FCC Rcd. 7094 (1990). (DRC's Comments at 5.) Like Garysburg Radio, DRC fails to acknowledge the Commission's more current, 1997 ruling in *Llano*. (DRC's Comments at 5.) Accordingly, DRC's argument on this point fails for the same reasons as does Garysburg Radio's. See discussion, *supra*, at Section II.B.

b. MainQuad's Proposal Would Not Constitute a Move from a Rural Community to an Urban Community Necessitating a Tuck Analysis

DRC argues that MainQuad's proposal, in fact, would constitute a move from a rural community to an urban community necessitating a *Tuck* analysis to ensure that such a move is done in a manner consistent with the Commission's policy relating to such migrations. (DRC's Comments at 4.) Although DRC recognizes that from the reference coordinates specified in MainQuad's proposal the 70 dBu contour of its proposed facilities at Whitakers will cover only 27.9 percent of the Rocky

Mount urbanized area, DRC asserts that had MainQuad proposed the closest fully-spaced site, its proposed 70 dBu contour would cover 63.9 percent of the Rocky Mount Urbanized Area—well above the 50 percent required to necessitate a *Tuck* analysis. (DRC’s Comments at 4.)

DRC’s reasoning is flawed for several reasons. First, if the Commission had determined that the coordinates used by MainQuad were problematic, the Commission would have proposed in its *NPRM* more appropriate coordinates as it did with Alberta.<sup>8</sup>

Second, even assuming that the coordinates that DRC alleges provide the closest fully-spaced site, and assuming that by virtue of that fact DRC’s coordinates are the only coordinates that should be used, DRC miscalculated the coverage that would be provided by MainQuad’s proposed 70 dBu contour. As it did in determining its “city-grade” coverage of Dinwiddie, DRC used an “actual terrain” analysis rather than the “uniform terrain” analysis required by the Commission in *Caldwell*, as discussed above. Had DRC properly calculated the 70 dBu contour from its idealized coordinates using a “uniform terrain,” it would have found that MainQuad’s proposed 70 dBu contour would not cover the

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<sup>8</sup> In its Petition for Rulemaking, Broomfield proposed reference coordinates of North Latitude 36° 51’ 53” and West Longitude 77° 52’ 59” for Channel 299A at Alberta. (Petition at 3.) In its *NPRM*, the Commission proposed reference coordinates of North Latitude 36° 51’ 56” and West Longitude 77° 53’ 12” for Channel 299A at Alberta. *NPRM*, MM Docket No. 00-245, RM-9971, DA 002771 at n.3.



63.9 percent of the Rocky Mount urbanized area as alleged, but only 37.1 percent--well below the 50 percent needed to trigger a *Tuck* analysis. Exhibit 2, MainQuad's Whitakers Engineering Study Using DRC's Coordinates.

Third, even assuming that a *Tuck* analysis<sup>9</sup> is required, which it is not, such an analysis demonstrates that MainQuad's proposal is not a migration from a rural to an urban area, but rather provides first local service to a deserving, independent community.

Application of the factors found appropriate in *Tuck* reveals the following: it approximately 25 kilometers from the center of Whitakers to the center of Rocky Mount proper and Whitakers is outside the Rocky Mount urbanized area. (Exhibit 3, Census map depicting the Rocky

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<sup>9</sup> Under *Faye and Richard Tuck*, 3 FCC Rcd. 5374, 5377-78 (1988), the Commission relies on three criteria to determine if a first local service is warranted: (1) signal population (referring to the degree to which the proposed station could provide service not only to the suburban community, but to the adjacent metropolis as well); (2) the size of the suburban community relative to the adjacent city, its proximity to the city and whether the suburban community is within or outside but proximate to the Urbanized Area; and (3) the interdependence of the suburban community with the central city.

As announced in *Tuck*, while the first two criteria are pertinent, the Commission places more significance on evidence of interdependence. *Tuck* listed eight factors (but did not intend to exclude others) for considering whether a suburban area is independent of the urban area or in fact, interdependent as follows: (1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and interests; (3) whether the community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8)